Veterans Benefits Administration
Department of Veterans Affairs
Washington, DC 20420

Circular 26-10-02
January 8, 2010

VA MAKING HOME AFFORDABLE PROGRAM

1. PURPOSE. This circular provides authority and instructions for modifying VA-guaranteed home loans in accordance with the President's Making Home Affordable (MHA) program. These new procedures will be effective February 1, 2010.

2. BACKGROUND. VA has a longstanding policy of encouraging servicers to work with veteran borrowers to explore all reasonable options to help them retain their homes, or when that is not feasible, to mitigate losses by pursuing alternatives to foreclosure. In an effort to help homeowners avoid foreclosure, the President announced the MHA program to make home loans more affordable. Two main features are the Home Affordable Refinance Program (HARP) and the Home Affordable Modification Program (HAMP). HARP was introduced to help borrowers refinance at lower interest rates despite high loan-to-value (LTV) ratios, and provides relief similar to VA's existing Interest Rate Reduction Refinancing Loan (IRRRL) program. HAMP was introduced to avoid foreclosures by modifying loans to increase affordability relative to borrower income. Under HAMP, an affordable modification is defined as a new monthly mortgage payment (including principal, interest, property taxes, insurance, and condominium or homeowners' association fees (PITIA)) that is no greater than 31 percent of the borrower's monthly gross income. HAMP requires a two-step process for modifications that includes: a Trial Period Plan, where the borrower makes the proposed new modified mortgage payment for 3 months; and, after determination of eligibility for HAMP, an Agreement outlining the terms of the final modification. This circular explains how VA loans fit into the MHA program.

3. GUIDANCE TO SERVICERS

a. VA HAMP. VA expects servicers to exert all reasonable efforts to assist veteran borrowers in retaining ownership of their homes or mitigating losses when retention is not possible. Before considering VA HAMP, servicers must first evaluate defaulted mortgages for traditional loss mitigation actions cited in Title 38, Code of Federal Regulations, section 36.4819 (38 CFR 36.4819); i.e., repayment plans, special forbearances, traditional loan modifications. If the payments are affordable, then the traditional loss mitigation option will be used to help the veteran retain the home and avoid foreclosure. If none of the traditional home retention loss mitigation options provide an affordable payment, the servicer must evaluate the loan for a VA HAMP modification prior to deciding that the default is insoluble and exploring alternatives to foreclosure. VA expects servicers to complete all loss mitigation activities, including review for HAMP modifications, expeditiously, as interest on any claim under guaranty on an unsuccessful case is limited to 210 days from the due date of the last paid installment plus the published timeframe for foreclosure in the State where the security is located. This circular provides servicers with temporary authority to modify VA-guaranteed loans in a manner similar to HAMP. This VA HAMP authority can be utilized only if the following three requirements are met: 1) borrower does not qualify for traditional home retention loss mitigation, 2) the property is the borrower's primary residence, and 3) the VA HAMP modification is agreed upon by December 31, 2012 (current HAMP expiration date). The VA guaranty amount on a HAMP modification will be calculated pursuant to 38 CFR 36.4815, which could increase the maximum guaranty amount on the modified loan.

b. Servicer Completes Net Present Value (NPV) Calculation for VA HAMP. To determine if a default is insoluble, the servicer must perform a two-step NPV evaluation that will establish veteran borrower qualification for VA HAMP. This is necessary to ensure a veteran receives appropriate consideration for loan modification, even when the VA guaranty makes foreclosure a more financially attractive option for a servicer. The VA-Guaranteed Loan NPV model will assume that the loan is guaranteed by VA, with the customary claim and acquisition payments. The Conventional Loan NPV model assumes that the loan is not guaranteed by VA, and that no guaranty claim or acquisition is payable. Both NPV models require that all parameters, other than the existence of the VA guaranty, be identical (e.g., discount rate, default rate, standard VA modification incentive, etc.). Guidance regarding NPV models can be found at the HAMP website, www.hmpadmin.com. Based on the outcome of these model calculations, the servicer will take the appropriate action, as detailed in the table below.

Scenario	**VA-Guaranteed Loan NPV Test**	**Conventional Loan NPV Test**	**Servicer Action**
A	Favor Modification	Not Needed	Execute VA HAMP modification pursuant to U.S. Department of Treasury's HAMP guidelines. For current loans, follow instructions in subparagraph d below.
B	Reject Modification	Favor Modification	Loan may be eligible for VA Refund (purchase). The servicer is required to notify VA so refunding may be considered. For current loans, follow instructions in subparagraph d below. For delinquent loans, follow instructions in subparagraph e below.
C	Reject Modification	Reject Modification	Explore short sale, deed in lieu, or proceed with foreclosure.

c. Servicer Authority to Complete VA HAMP Modifications. If the loan meets HAMP eligibility requirements, the servicer must execute the modification pursuant to the HAMP guidelines located at www.hmpadmin.com with the following exceptions:

(1) Standard VA servicer incentives apply.

(2) VA-guaranteed home loans are not eligible for any MHA incentives issued by the U.S. Department of Treasury at this time.

(3) VA will not pay incentives for any modification completed on a current loan.

(4) VA will not pay borrower incentives.

(5) Servicer Participation Agreements are not required.

d. Modification of Current Loans. Current loans may not be solicited for VA HAMP modification, as they should be considered for refinancing with programs such as VA's IRRRL. However, if a veteran borrower contacts a servicer to advise of "imminent danger of default", the loan may be evaluated under the VA HAMP guidelines. Modification of current loans requires VA prior approval. See Circular 26-09-17, Interim Process for Pre-Approval of Loan Modifications on Current Loans, issued October 1, 2009, for instructions on seeking prior approval to modify current loans.

e. Referral to VA for Refunding Consideration. When the table in subparagraph b above indicates that the loan may be eligible for VA refunding consideration, the servicer will e-mail the VALERI-assigned VA technician about the potential refunding. Servicers must also copy a VA Servicing Officer (SO) at the same Regional Loan Center (RLC) on the e-mail, in case the technician is unavailable for an extended period of time. The case information in VALERI lists the assigned VA technician, and servicers should refer to the VA Regional Loan Center Contact Information (by clicking the VALERI link at www.homeloans.va.gov) to obtain the name of an SO. The servicer will upload to VALERI all available and relevant information required under HAMP, including the data used in the servicer's NPV calculation. Relevant information includes, but is not limited to, the total eligible indebtedness, the borrowers' expected gross monthly income, and the expected monthly escrow amount. The VA technician will e-mail the servicer within 7 calendar days with a determination of whether or not VA will proceed with refunding consideration. VA will reimburse additional interest accrued in accordance with existing policies. If insufficient documentation is provided to make a determination, the servicer may be liable for accrued interest during VA's further development.

4. GUIDANCE TO VA STAFF

a. VA Refunding with HAMP Modifications. A VA technician will receive an e-mail from a servicer after it has analyzed a loan under the HAMP guidelines and believes refunding may be appropriate according to the table in paragraph 3b. If the servicer has provided all available and relevant information (including the data used in the NPV calculation), the VA technician will e-mail the servicer within 7 calendar days as to whether or not VA will proceed with refunding consideration. After this preliminary review, in instances where a decision is made not to proceed with refunding consideration, SO approval must be obtained prior to notifying the servicer. However, SO approval is not required in instances when refunding consideration will proceed. All refund recommendations must be thoroughly documented. If VA will not refund the loan, the technician will notify the servicer to pursue loss mitigation alternatives or foreclosure. If a decision is made to continue with refunding consideration, the technician will open the "review refund" process and proceed with refunding as usual. VA will reimburse additional interest accrued in accordance with existing policies.

b. VA NPV Model for Refunding. During the refunding review, the technician must utilize a newly introduced VA NPV refunding model available on the VA Intranet. The technician will input income and other required data and calculate the adjusted interest rate, term, and principal deferment for a loan modification needed to achieve a monthly mortgage payment (PITIA) of no greater than 31 percent of the borrower's gross income. The VA HAMP refunding program provides for a fixed interest rate, with a floor of two percent for the life of the loan; a maximum term of up to 40 years; and principal deferment when appropriate. The U.S. Department of Treasury directive describes principal deferment as a non-interest bearing and non-amortizing amount, which is essentially a balloon payment fully due and payable upon the earliest of: the transfer of the property, the payoff of the interest bearing unpaid principal balance, or the maturity of the loan.

c. Special Considerations. If the initial VA NPV analysis indicates the loan should not be refunded, the technician will thoroughly review the case and clearly document any special circumstances that could justify approval of the refunding. For example, if the present default was caused by unique circumstances beyond the veteran's control that have been resolved or will clearly soon be resolved, the technician may recommend approval to the SO with documentation to justify not following the initial analysis. RLC management may contact VA Central Office for guidance in unusual situations.

d. Benefits of VA Refunding to Servicers and Veterans. If a loan cannot be modified by the servicer under HAMP, but is refunded by VA, the servicer is essentially paid in full for the loan and the veteran receives a fresh start with affordable payments. Unlike the HAMP program, VA refunds does not have a 3-month trial period because the VA modification agreement immediately changes the installment amount to begin the fresh start sooner. Additionally, VA will not increase the interest rate after 5 years; instead the loan will retain the lower refunded rate for the life of the modification.

5. QUESTIONS. Questions may be directed to Mike Frueh at mike.frueh@va.gov.

6. RESCISSION: This circular is rescinded January 1, 2014.

By Direction of the Under Secretary for Benefits

Mark Bologna, Director
Loan Guaranty Service

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